

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

Plaintiff,

vs.

ROSS HACK and LELAND JONES,

Defendant.

2:12-CR-00063-PMP-RJJ

ORDER

On January 24, 2014, Defendant Ross Hack filed a Motion For The Court To Determine Pre-Trial Whether Federal Jurisdiction Existed In 1998 Over The Geographic Area At Issue In The Counts Of The Indictment (Doc. #198). Co-Defendant Leland Jones Joined in Defendant Ross Hack's Motion (Doc. #200).

On May 13, 2014, an evidentiary hearing was conducted before the Honorable Carl W. Hoffman, United States Magistrate Judge, and on June 17, 2014, Magistrate Judge Hoffman entered a Report and Recommendation (Doc. #270) summarizing the evidence presented and recommending that Defendant's motion be denied to the extent it requests dismissal under Rule 12(b)(3) of the Federal Rules of Criminal Procedure.

On June 21, 2014, Defendant Ross Hack filed Objections (Doc. #273) to the Report and Recommendation of Magistrate Judge Hoffman, which Defendant Jones Joined (Doc. #276) on June 23, 2014. On July 7, 2014, the Court conducted a hearing at which counsel for Defendants and Plaintiff United States presented arguments on Defendants' objections.

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1 Defendant Hack's Motion to Dismiss (Doc. #198) asked this Court to determine,
2 "prior to trial, as a matter of law, whether the existence of federal jurisdiction existed over
3 the geographic area at issue in the four counts charged." Defendant Hack's motion further
4 states, "proving the locus of the offense within that area remains an issue of fact for the
5 trier of fact at trial." Thus, as noted by Magistrate Judge Hoffman in his Report and
6 Recommendation (Doc. #270), Defendants acknowledge the difference between
7 determining whether federal jurisdiction exists over the geographic area in question, and
8 determining whether the crimes at issue were committed within the geographic area, which
9 is a matter properly reserved for the jury at the time of trial.

10 Based upon the evidence adduced at the evidentiary hearing conducted May 13,
11 2014, Magistrate Judge Hoffman found, as a matter of law, that there is federal jurisdiction
12 over the geographic area where the bodies of the murder victims, Newborn and Shersty,
13 were discovered. Magistrate Judge Hoffman further found that, "it remains for the trier of
14 fact to determine, among other things, where the 'injury was inflicted' which caused the
15 deaths of the victims in this matter."

16 The Court has conducted a *de novo* review of the evidentiary proceedings
17 conducted before Magistrate Judge Hoffman on May 13, 2014. Based upon that review, the
18 Court finds that the recommendation of the Magistrate Judge should be affirmed, and
19 Defendants' Objections (Doc. # 273) should be overruled. The Court finds that Defendants'
20 Motion to Dismiss (Doc. #198) should be denied without prejudice to renew the motion for
21 dismissal under Rule 12(b)(3) at the time of trial following the presentation of the
22 Government's case in chief.

23 **IT IS SO ORDERED.**

24 DATED July 8, 2014.

25 
26 PHILIP M. PRO
United States District Judge